

STATEMENT OF EMERGENCY
803 KAR 25:120E
TRAINING OR EDUCATION PROGRAMS ELIGIBLE FOR
RETRAINING INCENTIVE BENEFITS AND BONUSES

(1) The Department of Workers Claims must amend this administrative regulation by emergency due to statutory amendments to KRS 342.732. The statutory amendments will become effective July 15, 2002. The amendments set forth specific requirements for students who receive retraining incentive benefits for bona fide training and education programs and GED programs. The amendments also set forth requirements for bonuses for completion of a bona fide education and training program.

(2) This emergency regulation will be followed by an ordinary administrative regulation.

PAUL E. PATTON, GOVERNOR

DATE

LARRY GREATHOUSE, COMMISSIONER
DEPARTMENT OF WORKERS CLAIMS

DATE

1 **LABOR CABINET**

2 **Department of Workers' Claims**

3 **(Emergency)**

4 **803 KAR 25:120E. Training or education programs eligible for retraining incentive**
5 **benefits and bonuses.**

6 RELATES TO: KRS 342.040(3), 342.732

7 STATUTORY AUTHORITY: KRS 342.732(1)(a)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.732 requires the Commissioner
9 of the Department of Workers' Claims to promulgate administrative regulations to approve
10 bona fide training or education programs eligible to receive a maximum of \$5,000 for standard
11 instruction, tuition, ~~[and] material costs, and any fees necessary for the completion of the~~
12 ~~program. It also provides for attainment of GED and bonuses for completion of bona fide~~
13 ~~training and education programs [directly from the employer for a student who has been~~
14 ~~awarded retraining incentive benefits].~~

15 Section 1. Definitions. (1) "Bona Fide Training or Education Program" means a
16 postsecondary education or training program ~~including postsecondary programs registered~~
17 ~~with the Higher Education Assistance Authority, which can be completed within the period~~
18 ~~benefits are payable under KRS 342.732, and when successfully completed, will qualify the~~
19 ~~person for a trade, occupation, or profession and those programs certified by the~~
20 ~~Commissioner in Section 2 of this administrative regulation [to prepare students for gainful~~
21 ~~employment, which has been certified by the Commissioner of the Department of Workers'~~

1 ~~Claims as eligible for receipt of instruction, tuition, and material costs pursuant to this~~
2 ~~administrative regulation].~~

3 (2) "RIB" means retraining incentive benefits.

4 (3) "RIB student" is a student receiving retraining incentive benefits and meeting the
5 requirements established in KRS 342.732(1)(a).

6 Section 2. Certification by Commissioner. (1) Any training institution or education program
7 seeking certification from the commissioner of the Department of Workers' Claims as a "bona
8 fide training or education program" shall apply by letter to the following address:
9 Commissioner/Retraining Incentive Benefit Education Program Certification, Department of
10 Workers' Claims, Prevention Park, 657 To Be Announced Avenue [1270 Louisville Road],
11 Frankfort, Kentucky 40601.

12 (2) Each application shall:

13 (a) Provide proof of licensure and accreditation;

14 (b) Provide evidence that the successful completion of the training or education program
15 shall qualify a student for gainful employment and can be completed within the period benefits
16 are payable under KRS 342.732(1)(a)1;

17 (c) Include catalogs, brochures, or other descriptive material pertaining to education or
18 training programs and the cost of the program [their costs];

19 (d) Provide any available job placement rates for students who have completed the
20 education or training program.

21 Section 3. Each program certified by the commissioner shall:

22 (1) Apply funds paid to the program under this administrative regulation only to instruction,
23 tuition, material costs, and any fees necessary for the completion of the program;

24 (2) Notify an insurance carrier or self-insured employer, Coal Workers' Pneumoconiosis

Fund, and the Department of Workers' Claims in writing within ten (10) days of the date that a RIB student ceases to participate in the program or graduates;

(3) Send bills directly and promptly to the Coal Workers' Pneumoconiosis Fund, self-insured employer, or insurance carrier for standard instruction, tuition, material costs, and any fees necessary for the completion of the program.

(4) Notify Department of Workers' Claims in writing within ten (10) days of the date of change in status when a student reverts from full time to part time status.

Section 4. Continuing Eligibility. (1) The Commissioner of the Department of Workers' Claims shall certify the eligibility of a training or education program for RIB students following receipt of an application from the program adequate to assure that the criteria outlined in this administrative regulation have been met.

(2) If at any time thereafter the commissioner has reason to believe that certification of the program should be terminated, the program shall:

(a) Be given notice of the termination of certification thirty (30) days in advance; and

(b) Have the opportunity to challenge the termination by requesting a hearing before the commissioner within the thirty (30) day notice period.

Section 5. Requirements for RIB students for successful participation and completion of a bona fide training or education program and awarding of bonuses paid pursuant to KRS 342.732(1)(a)6.

(1) Unless good cause is shown to the Commissioner, a RIB student shall attend a minimum of 90% of classes scheduled in each academic quarter, semester, or other term.

(2) If good cause is shown to the Commissioner, the Commissioner may allow attendance of a minimum of 80% of classes scheduled in each academic quarter, semester, or other term.

1 (3) Completion of a bona fide training or education program shall be signified by the RIB
2 student's receipt of a completion document such as certificate, diploma, or degree awarded
3 by the training or education institution.

4 (4) A RIB student who is suspended by a training or education institution for academic or
5 disciplinary reasons shall not be eligible for RIB benefits after the date of suspension.

6 (5) RIB benefits may be reinstated after a suspension if the student is readmitted to the
7 training or education program.

8 (6) A RIB student shall not be eligible to receive RIB benefits if the student fails in two
9 consecutive monthly reports by the instructor:

10 (a) to meet attendance requirements set forth in subsection (1) and (2) of this section; or

11 (b) to maintain a satisfactory level of performance and progress.

12 (7) To qualify for the completion bonuses provided in KRS 342.732(1)(a)(6), the RIB
13 student shall submit the following:

14 (a) an affidavit from the student which includes:

15 1. a statement that the course was completed;

16 2. a statement of the number of months needed to complete the course; and

17 3. a certification from the student that the statements and document attached are true and
18 accurate.

19 (b) appropriate completion document from the training or education institution; and,

20 (c) a statement from the institution listing the number of months required for completion of
21 the course of study.

1 (8) Any period of study pursuant to KRS 342.732(1)(a)(3) shall not be considered a part of
2 the length of study for the completion of the program or be considered a part of the monthly
3 requirements necessary for the receipt of a completion bonus.

4 Section 6. Requirements for receipt of income benefits for successful completion of GED
5 program pursuant to KRS 342.732(1)(a) 3.

6 (1) Unless good cause is shown to the Commissioner, a RIB student shall attend a
7 minimum of 90% of classes in an individualized class schedule developed for the RIB student
8 by the GED instructor;

9 (2) If good cause is shown to the Commissioner, the Commissioner may allow attendance
10 of a minimum of 80% of classes in an individualized class schedule developed for the RIB
11 student by the GED instructor.

12 (3) The RIB student shall demonstrate a level of performance and progress acceptable to
13 the GED instructor.

14 (4) The GED instructor shall submit monthly reports to the Department and insurance
15 carrier or self-insured employer which shall include:

16 (a) the RIB student's attendance, and

17 (b) a rating of satisfactory or unsatisfactory level of performance and progress.

18 (5) A RIB student shall not be eligible to receive RIB benefits if in two consecutive monthly
19 reports by the GED instructor the student:

20 (a) fails to meet attendance standards; or

21 (b) has an unsatisfactory level of performance and progress.

22 (6) An employee with a GED or high school diploma who has been awarded RIB benefits
23 but who scores at less than acceptable academic levels on admission tests required by a
24 training or education institution shall be eligible for income benefits pursuant to KRS

1 342.732(1)(a)3.

2 Section 7. RIB Student Responsibilities. (1) The RIB student shall notify the self-insured
3 employer or the insurance carrier, Coal Workers' Pneumoconiosis Fund, and the
4 Commissioner of the Department of Workers' Claims in writing within seven (7) days of the
5 following events:

- 6 (a) Application for admission to a training or education program;
- 7 (b) Enrollment and participation date in a training or education program;
- 8 (c) Withdrawal from a class or program for reasons other than completion;
- 9 (d) Graduation; and
- 10 (e) Return to work, including name and address of employer, job title, and earnings.

11 (2) Copies of the following documents shall be submitted to the self-insured employer or
12 insurance carrier and the Commissioner of the Department of Workers' Claims within seven
13 (7) days of receipt:

- 14 (a) All final grades; and
- 15 (b) Notice of academic or disciplinary probation or expulsion.

16 (3) Within ten (10) days of the end of each month, the RIB student shall submit a monthly
17 report to the Department, insurance carrier, or self-insured employer, and Coal Workers'
18 Pneumoconiosis Fund listing:

- 19 (a) number of classes missed,
- 20 (b) the dates the classes were missed,
- 21 (c) the reason for the absence, and
- 22 (d) academic progress in each class.

23 (4) The RIB student shall sign a release for the Department of Workers' Claims to obtain
24 copies of grades and attendance records for bona fide training and education programs, GED

1 programs, and remedial classes.

2 (5) The RIB student shall inform the Department of Workers' Claims, the insurance carrier,
3 or self-insured employer, and Coal Workers' Pneumoconiosis Fund when the student converts
4 from full time status to part time status.

5 Section 8. Suspension of RIB benefits

6 (1) The insurance carrier, self-insured employer, or Coal Workers' Pneumoconiosis Fund
7 may suspend weekly RIB benefits if one of the following occurs:

8 (a) Academic or disciplinary suspension;

9 (b) Failure to comply with the attendance requirements in Section 5 and 6 of this
10 administrative regulation;

11 (c) Termination of the training program by the student;

12 (d) Completion of the program by the student;

13 (e) A finding in two consecutive monthly reports by an instructor of unsatisfactory
14 performance of the student; or

15 (f) Failure of the student to file required attendance and progress reports for two (2)
16 consecutive months absent good cause shown to the Commissioner; or

17 (g) Pursuant to administrative law judge order.

18 (2) If RIB benefits are suspended for more than three hundred sixty-five (365) days
19 following the finality of the award, the number of weeks the individual is eligible for RIB benefits
20 pursuant to KRS 342.732(1)(a) shall not be extended.

21 ~~[Section 6. Alternative Agreements. The RIB student and the employer or insurance carrier~~
22 ~~responsible for payment of RIB benefits may in writing agree that the number of instruction~~
23 ~~hours per week for a RIB student in a bona fide training or education program may vary from~~
24 ~~that established in KRS 342.732(1)(a).]~~

1 Section 9[7]. Any training or education program participating in a student financial aid
2 program administered by the Kentucky Higher Education Assistance Authority is exempt from
3 submitting an application for certification by the commissioner.